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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,923	10/09/2006	Caroline Marie Dodd	AAT-16540	3601
7609 7590 10/21/2009 RANKIN, HILL, & CLARK LLP 23755 Lorain Road - Suite 200 North Olmsted, OH 44070-2224				
EXAMINER				
RUSH, KAREEN KAY				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
10/21/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,923

**Applicant(s)**

DODD, CAROLINE MARIE

**Examiner**

KAREEN RUSH

**Art Unit**

3781

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
- 4a) Of the above claim(s) 19-21, 23-25 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-18, 22, 26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB008)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species 1 (Fig. 1) in the reply filed on 10/08/2009 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 16 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by Robertson (US6581760).

a. Regarding claim 16, Robertson teaches a luminous container (Fig. 8) for identifying objects in the dark comprising a container body (Fig. 8 at 140) to support one or more objects. A luminous surface (the container can be made from a luminous material, col. 5, line 65-col. 6, line 12) on or in the container. The luminous surface glows in the dark identifying the container and or the object.

b. Regarding claim 18, the reference as applied to claim 16 teaches the container. The container is a glasses case supporting a luminous surface (Fig. 8).

4. Claims 16, 18, 25, 28 and 29 are rejected under 35 U.S.C. 102(a) as being anticipated by Beck (US5149568).

- c. Regarding claim 16, Beck teaches a luminous container (Fig. 3) for identifying objects in the dark comprising a container body (Fig. 3 at 30 and 26) to support one or more objects. A luminous surface (Fig. 3 at 18) on or in the container. The luminous surface blows in the dark identifying the container and or the object.
- d. Regarding claim 18, the reference as applied to claim 16 teaches the container. The container is a glasses case (the case is a "glasses case" because it is primary formed from a glass material) supporting a luminous surface (Fig. 3).
- e. Regarding claim 25, the reference as applied to claim 16 teaches the container. The luminous surface comprises a luminous backing plate separate from the container (Fig. 3 at 18).
- f. Regarding claim 28, the reference as applied to claim 16 teaches the container. The object to be identified, or an outline, is rendered visible by the luminous surface (Fig. 2).
- g. Regarding claim 29, the reference as applied to claim 16 teaches the container. The luminous container enables location of an object in the dark (Fig. 2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (US6581760) in view of Strauss (US5249675) and in further view of Beck (US5149568).

h. Regarding claim 17, the reference as applied to claim 16 teaches the container. The container can be used as a wallet because it is capable of holding money (Fig. 8). The Robertson reference DIFFERS in that it does not specifically include a transparent container, as claimed. Attention, however, is directed to Strauss, which discloses a container (Fig. 1). The container is comprised of a clear plastic material. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Robertson by making the container from a transparent material, in view of the teachings of Strauss, in order to allow a user to quickly identify the contents within the container. The reference as applied to claim 17 DIFFERS in that it does not specifically include a luminous backing plate, as claimed. Attention, however, is directed to Beck, which discloses a container (Fig. 3). The container has a luminous backing plate (Fig. 3 at 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the reference as applied to claim 17 by employing a luminous backing plate, in view of the teachings of Beck, in order to comply with the teaches of Robertson which discloses the container can be a luminous container and in order to be able to see the container in the dark.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (US6581760) in view of Strauss (US5249675).

i. Regarding claim 22, the reference as applied to claim 16 teaches the container. The Robertson reference DIFFERS in that it does not specifically include a transparent container, as claimed. Attention, however, is directed to Strauss, which discloses a container (Fig. 1). The container is comprised of a clear plastic material. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Robertson by making the container from a transparent material, in view of the teachings of Strauss, in order to allow a user to quickly identify the contents within the container.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (US5149568) in view of Patton (US6071855).

j. Regarding claim 26, the reference as applied to claim 16 teaches the container. The backing plate has glow in the dark paint on one or more surfaces (column 3, lines 55-66). The Beck reference DIFFERS in that it does not specifically include a transparent plastic backing plate, as claimed. Attention, however, is directed to Patton, which discloses a panel (Fig. 1). The panel has a transparent plastic layer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Beck by employing a transparent plastic layer, in view of the teachings of Patton, in order to comply with the teaches of Patton which discloses the transparent layer

is capable of retaining ink and in order to have a flexible backing that is clear and allows the glowing paint to be viewed clearly.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Liebers reference discloses a glasses case. The Takasaki reference discloses a glasses case. The Baratelli reference discloses a glasses case. The Orogun-Thomas reference discloses a glasses case. The Cummins reference discloses a glasses case. The Platt reference discloses a glasses case. The Gallin reference discloses a glasses case. The Aoki reference discloses a display board. The Yu reference discloses a case. The Castelli reference discloses a glasses case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREEN RUSH whose telephone number is (571)270-5611. The examiner can normally be reached on Monday-Friday (8:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/  
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K.R.  
AU:3781